

AN ORDINANCE **2010-08-19-0723**

APPROVING THE TERMS AND CONDITIONS OF A TAX ABATEMENT AGREEMENT WITH GLAZER'S WHOLESALE DRUG COMPANY, INC. TO EXEMPT ONE HUNDRED PERCENT (100%) OF AD VALOREM TAXES FOR A PERIOD OF TEN (10) YEARS ON REAL AND PERSONAL PROPERTY IMPROVEMENTS INCLUDING INVENTORY MADE WITHIN THE GLAZER'S WHOLESALE DRUG COMPANY REINVESTMENT ZONE.

* * * * *

WHEREAS, Glazer's Wholesale Drug Company, Inc. (hereinafter referred to as "Glazer's"), a national beverage distributor with over 6,000 employees nationwide, has determined that it will expand its regional operations by investing approximately \$26 million in the construction of a new LEED certified warehouse, distribution and sales/marketing facility (the "Facility"); and

WHEREAS, Glazer's considered different locations to construct the Facility, including San Antonio, where it currently employs 125 individuals in City Council District 2; and

WHEREAS, it was determined by Glazer's that the Facility would require approximately 35 acres to accommodate expansion, making the current location unfeasible and prompting the City to located available property within city-limits; and

WHEREAS, City-owned property was located at the Southwest Business and Technology Park in City Council District 6 (the "Property"), an area that is designated as a State Enterprise Zone and targeted by the City for redevelopment; and

WHEREAS, Glazer's has agreed to purchase the Property through a separate agreement, construct the Facility on the Property and expand its workforce by 125 employees provided that the City grant a 100% abatement of ad valorem taxes for a term of ten (10) years; and

WHEREAS, in accordance with the City of San Antonio and Bexar County Joint Tax Phase-In Guidelines (the "Guidelines") property located within a State Enterprise Zone is eligible for a 100% abatement of ad valorem taxes for a term of up to ten (10) years; and

WHEREAS, the City Council finds that offering Glazer's a Tax Abatement Agreement for its real and personal property improvements, including inventory, is a reasonable incentive to help induce Glazer's to retain its current employees and to expand its operations in San Antonio; and

WHEREAS, the City Council also finds that it is in the best interest of the City to approve a Tax Abatement Agreement with Glazer's to induce the desired and beneficial economic development in the area; **NOW THEREFORE:**

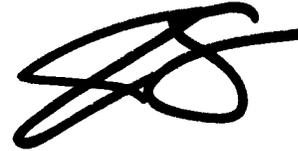
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council approves the terms and conditions of a Tax Abatement Agreement with Glazer's Wholesale Drug Company granting a one hundred percent (100%), ten (10) year abatement of ad valorem taxes on real and personal property improvements, including inventory made by Glazer's within the Glazer's Wholesale Drug Company Reinvestment Zone. A copy of the Agreement, in substantially final form, is attached hereto and incorporated herein as Exhibit "A".

SECTION 2. The City Manager or a designated representative is authorized to execute the Tax Abatement Agreement as approved in Section 2. The final Agreement shall be filed with this ordinance upon execution.

SECTION 3. This ordinance shall be effective on and after the tenth day after passage hereof.

PASSED AND APPROVED this 19th day of August 2010.



M A Y O R
Julián Castro

ATTEST:

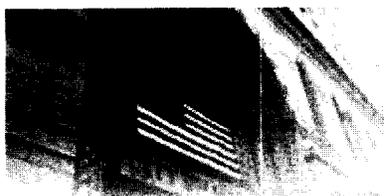
APPROVED AS TO FORM:



Leticia M. Vacek, City Clerk

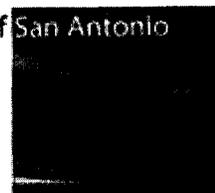


Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**

City of San Antonio



Agenda Voting Results - 33B

Name:	33A, 33B, 33C						
Date:	08/19/2010						
Time:	03:45:11 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a 10-year, 100% tax abatement on Glazer's new real and personal property improvements and new inventory valued at approximately \$1,542,055.00						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x			x	
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				

EXHIBIT A

STATE OF TEXAS

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§
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**CITY OF SAN ANTONIO
TAX ABATEMENT AGREEMENT
FOR REAL AND PERSONAL PROPERTY
AND INVENTORY**

COUNTY OF BEXAR

1. PARTIES

THIS AGREEMENT (the "Agreement") is entered into on this ___ day of August, 2010, by and among GLAZER'S WHOLESALE DRUG COMPANY, INC. (hereinafter referred to as "DISTRIBUTOR"), GLAZER INVESTMENTS, INC., a Texas corporation (hereinafter referred to as "GLAZER"), and the CITY OF SAN ANTONIO, a municipal corporation (hereinafter referred to as the "CITY"), acting by and through its City Manager under the authority of its City Council. GLAZER is the holder of the fee simple title to the real property described herein and has leased said property to DISTRIBUTOR as tenant. Tenant is the owner of certain personal property and equipment located within the improvements to be constructed on said real property, pursuant to a long term lease with GLAZER as landlord.

2. AUTHORIZATION AND FINDINGS

A. This Agreement is entered into pursuant to the following authorities:

1. The Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312, as amended;
2. CITY COUNCIL RESOLUTION No. 89-07-12, dated the 15th day of February 1989, and most recently revised by Ordinance No. 2008-12-11-1169 on December 11, 2008, together which established the City of San Antonio Guidelines and Criteria for Tax Phase-In and Reinvestment Zones, (hereinafter referred to as the "Guidelines and Criteria");
3. Texas Government Code, Title 10, Subtitle G, Chapter 2303, Texas Enterprise Zone Act which designates property within a State Enterprise Zone as a REINVESTMENT ZONE (the "Zone") for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312; and
4. CITY COUNCIL ORDINANCE NO. 2010-__-____, dated _____, 2010, which specifically approves this Agreement and authorizes execution hereof.

B. The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement are within the Guidelines and Criteria and the approval of this Agreement

will not have any substantial long-term adverse effect on the provision of city services or the City's tax base. The City Council also finds that the planned use of the Property (defined below) inside the Zone by DISTRIBUTOR does not constitute a hazard to public safety, health or morals.

C. The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement are substantially similar to any Tax Abatement Agreement offered to DISTRIBUTOR by Bexar County.

3. **PROPERTY**

A. GLAZER is fee simple owner of real property located at 1200 BLOCK OF SOUTH CALLAGHAN ROAD AT 6000 STATE HIGHWAY 151 (the "Property"), legally described in Exhibit A, attached hereto and incorporated herein. The Property is within SAN ANTONIO ENTERPRISE ZONE, commonly known as the South Texas Business and Technology Park, thereby being designated a Reinvestment Zone for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312. GLAZER, as landlord, has leased the Property to DISTRIBUTOR, as tenant, pursuant to a long term lease.

B. DISTRIBUTOR is a wholesale distributor of wine, spirits, and other alcoholic beverages. DISTRIBUTOR intends to construct an approximate 250,000 sq. ft state-of-the-art tilt wall distribution and office facility equipped with the latest technology on the Property for the purpose of performing regional distribution, sales and marketing activities (the "Business Activities"). The Business Activities shall be conducted on the Property by DISTRIBUTOR or a Related Organization, as defined in Article 5, Paragraph I, for the entire term of this Agreement.

C. DISTRIBUTOR is investing approximately FIFTEEN MILLION DOLLARS (\$15,000,000.00) in real property (the "Real Property Improvements"), FIVE MILLION DOLLARS (\$5,000,000.00) in personal property (the "Personal Property Improvements") and TEN MILLION DOLLARS (\$10,000,000.00) in new inventory ("Inventory") to be located on the Property and used for DISTRIBUTOR's Business Activities. The Personal Property Improvements and Inventory shall not be placed on the Property sooner than the effective date of this Agreement.

D. DISTRIBUTOR shall establish a separate tax account for the Real and Personal Property Improvements related to this new real and personal property investment, with the Bexar Appraisal District and provide these tax account numbers to the CITY. The Personal Property Improvements account may include Inventory.

4. **DISTRIBUTOR'S REPRESENTATIONS**

A. DISTRIBUTOR represents that it has no knowledge that any interest in the Property is presently owned, held or leased by a member of the San Antonio City Council, Zoning Commission, Planning Commission, the City's Economic Development

Department, or any other City officer or employee. DISTRIBUTOR further represents that it shall not knowingly sell, lease or otherwise convey such an interest to a member of the San Antonio City Council, the Zoning Commission, the Planning Commission, the City's International and Economic Development Department or any other City officer or employee, as long as this Agreement remains in effect.

B. DISTRIBUTOR represents that there is no litigation pending against DISTRIBUTOR for any violations under the Occupational Safety and Health Act ("OSHA").

5. OBLIGATIONS OF DISTRIBUTOR

A. In addition to the obligations and duties imposed on DISTRIBUTOR by other incentive agreements it has entered into with the State of Texas, Bexar County and the City of San Antonio, DISTRIBUTOR and/or GLAZER, as applicable, shall:

1) own, hold an interest in or otherwise control the Real Property, Personal Property and Inventory that are the subject of this Agreement; and

2) invest, or cause to be invested, approximately FIFTEEN MILLION DOLLARS (\$15,000,000.00) in the Real Property Improvements; FIVE MILLION DOLLARS (\$5,000,000.00) in the Personal Property Improvements; and TEN MILLION DOLLARS (\$10,000,000.00) in New Inventory, defined as inventory exceeding NINE MILLION DOLLARS (\$9,000,000.00) by **August 31, 2012**; and

(3) shall hire a minimum of ONE HUNDRED (100) new full-time employees and retain ONE HUNDRED AND TWENTY FIVE (125) existing jobs in San Antonio for a cumulative total of TWO HUNDRED AND TWENTY-FIVE (225) full-time jobs with the place of employment on the Property for the Term of this Agreement as follows:

a. In Calendar Year 2012, DISTRIBUTOR shall retain ONE HUNDRED AND TWENTY FIVE (125) jobs and create an additional FIFTY (50) jobs for a cumulative total of ONE HUNDRED AND SEVENTY FIVE (175) jobs by December 31, 2012.

b. In Calendar Year 2013, DISTRIBUTOR shall retain ONE HUNDRED AND SEVENTY FIVE (175) jobs and create an additional FIFTY (50) jobs for a cumulative total of TWO HUNDRED AND TWENTY FIVE (225) jobs by December 31, 2013.

- c. In Calendar Years 2014 through 2022, DISTRIBUTOR shall retain TWO HUNDRED AND TWENTY FIVE (225) jobs in accordance with the terms of this Agreement.

and

- (4) shall occupy and use the Property for its Business Activities for the Term of the Agreement; and

- (5) shall materially comply with all other applicable terms of this Agreement.

B. DISTRIBUTOR covenants and agrees that it shall pay at least one hundred percent (100%) of its new and existing employees at the facility the City's effective prevailing "living" wage as determined by the City Council in its Tax Abatement Guidelines, which is ten dollars and sixty cents (\$10.60) per hour. After one year of initiating full operations at the project location, seventy percent (70%) of all new and existing employees must earn at least twelve dollars and seventy six cents (\$12.76) per hour.

C. A Full-Time Job, for the purposes of this Agreement, shall be equivalent to two thousand eighty (2,080) straight-time paid hours in a fiscal year.

D. DISTRIBUTOR covenants and agrees that it shall offer all of its non-temporary full-time employees employed on the Property substantially similar employee benefits as those employee benefits offered to similarly situated employees of DISTRIBUTOR.

E. DISTRIBUTOR covenants and agrees that it shall comply with all applicable federal and state laws governing the employment relationship between employers and employees.

F. DISTRIBUTOR also covenants and agrees that it shall conduct its Business Activities (as defined in Article 3, Paragraph A) on the Property in accordance with all applicable federal, state and local laws.

G. DISTRIBUTOR's construction of real property improvements to the Property shall be in accordance with all applicable federal, state and local laws including, but not limited to, Texas Commission on Environmental Quality regulations, Bexar County and City of San Antonio laws, Building Codes and ordinances, Historic Preservation and Urban Design ordinances, flood, subdivision, building, electrical, plumbing, fire and life safety codes and regulations, current and as amended.

I. Except as provided herein, DISTRIBUTOR covenants and agrees that it shall use the Property only to conduct its Business Activities. Without additional consent or approval required by the City Council, a parent, subsidiary or affiliate organization of DISTRIBUTOR or new entity created as a result of a merger, acquisition, or other corporate restructure or reorganization of DISTRIBUTOR, or any component thereof (hereinafter "Related Organization") may occupy and use the Property for such Related

Organization's normal business activities, so long as such business activities are those of DISTRIBUTOR or comparable to the Business Activities of DISTRIBUTOR on the Property. To be eligible for tax abatements as provided in this Agreement, such Related Organization must agree in writing to fully comply with all applicable terms of this Agreement. Except as authorized above, DISTRIBUTOR covenants and agrees not to change the principal use of the Property without prior approval by the City Council, as evidenced in a duly approved ordinance.

J. DISTRIBUTOR covenants and agrees that it shall maintain the Property and any constructed improvements in good repair and condition during the Tax Abatement Period, normal wear and tear and damage by fire or other casualty not caused as a result of the negligence, intentional act or misconduct of DISTRIBUTOR excepted. Compliance with the maintenance obligations imposed herein shall be presumed if DISTRIBUTOR follows its normal and customary maintenance procedures and schedules.

K. Upon five (5) business days' prior written notice to DISTRIBUTOR by CITY, DISTRIBUTOR covenants and agrees that it shall allow designated representatives of the CITY access to the Property during normal business hours for inspection to determine if the terms and conditions of this Agreement are being met. This inspection is independent of CITY'S police powers to inspect for purposes of assuring compliance with applicable City Codes and Ordinances. The CITY's access to DISTRIBUTOR's books and records will be limited to information needed to verify that DISTRIBUTOR is and has been conducting Business Activities, and to verify the number of full-time employees at the Facility. Any information that is not required by law to be made public shall be kept confidential by CITY. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to require DISTRIBUTOR to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of DISTRIBUTOR. CITY representatives may be accompanied by DISTRIBUTOR representatives and such inspections shall be conducted in such a manner as to (a) not unreasonably interfere with the operation of the Property or the Facility; and (b) comply with DISTRIBUTOR's reasonable security requirements.

L. During the term of this Agreement, DISTRIBUTOR covenants and agrees to furnish each year, as applicable, the Chief Appraiser of Bexar Appraisal District with information outlined in Chapter 22, V.A.T.S. Tax Code, as amended, as may be necessary for the tax abatement and for appraisal purposes.

M. DISTRIBUTOR covenants and agrees that it shall provide the CITY's Director of International and Economic Development with a semi-annual certification from an officer of DISTRIBUTOR attesting to the number of full-time jobs created and maintained by the DISTRIBUTOR, as well as wages paid, by DISTRIBUTOR. DISTRIBUTOR shall also submit this information to the CITY upon request, as deemed necessary at the sole discretion of the CITY, during the term of this Agreement. The information provided shall be on the forms set forth in, or substantially similar to the forms set forth in, Exhibit "C" (attached hereto and incorporated herein), as amended.

N. DISTRIBUTOR covenants and agrees to make a good faith effort to hire local employees to fulfill its requirements under Article 5, Paragraph A. "Local" is defined, for the purposes of this Paragraph, as an employee whose principal residence is located within the city limits of the City of San Antonio or within the county limits of Bexar County. Additionally, and in accordance with the requirements of the Guidelines and Criteria, DISTRIBUTOR agrees to hire not less than TWENTY-FIVE PERCENT (25%) of all new jobs with employees who reside in Bexar County.

O. DISTRIBUTOR covenants and agrees to notify CITY in writing at least 30 days prior to any sale, transfer or sub-lease of the Property during the Term. CITY shall not unreasonably withhold approval of any requests for Assignment of this Agreement by DISTRIBUTOR under Article 11 and any new purchaser or transferee requesting Assignment shall be bound by same. Failure to provide the required notification under this Article 5, Paragraph O may render DISTRIBUTOR subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph E).

P. DISTRIBUTOR covenants and agrees to notify CITY in writing at least 30 days prior to Relocating or Ceasing its Business Activities (as defined in Article 7, Paragraphs B and C). Failure to provide the required notification under this Article 5, Paragraph P may render DISTRIBUTOR subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph E).

Q. If, during this Agreement DISTRIBUTOR fails to create and retain at least the minimum number of full-time jobs required under Article 5, Paragraph A of this Agreement, or DISTRIBUTOR fails to pay at least the minimum wages required under Article 5, Paragraph B of this Agreement for a period of three (3) or more consecutive months, then the termination and recapture provisions of Article 7 of this Agreement shall apply against DISTRIBUTOR.

R. If, during this Agreement, DISTRIBUTOR allows its ad valorem taxes due on the land, real and personal property or inventory and supplies to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or is in default with any loan which has been made by any CITY-sponsored loan/grant/bond program, then the termination and recapture provisions of Article 7 of this Agreement shall apply.

6. TAX ABATEMENT

A. The tax abatement period (the "Term") for the Real Property Improvements, Personal Property Improvements and Inventory shall be ten (10) years beginning on **January 1, 2012**. The base year for calculating the value of real property improvements and any personal property existing and located upon the Property prior to the effective date of this Agreement shall be **January 1, 2011**. The "Base Year Value" of the personal property not covered by this Agreement shall be its assessed value (determined by the

Bexar Appraisal District), as of the Base Year. This Agreement only provides for the abatement of taxes on tangible personal property and New Inventory brought onto the site after the execution of this Agreement.

B. At the commencement of the Term, DISTRIBUTOR shall own, have an interest in or otherwise control the Property and shall be conducting its Business Activities on a daily basis.

C. Provided that (i) DISTRIBUTOR has invested in Real Property Improvements, Personal Property Improvements and Inventory as described in Article 3, Paragraph A of this Agreement by **August 31, 2012**; (ii) DISTRIBUTOR has hired and retained the number of employees specified in Article 5, Paragraph A of this Agreement; (iii) DISTRIBUTOR is paying at least the minimum wages required under Article 5, Paragraph B of this Agreement; (iv) DISTRIBUTOR uses the Property for its Business Activities; and (v) DISTRIBUTOR is otherwise in compliance with the conditions of this Agreement, then ONE HUNDRED-PERCENT (100%) of the ad valorem taxes for the Real Property Improvements, Personal Property Improvements and Inventory, above the Base Year Value, shall be abated for the ten (10) year Term of this Agreement. There shall be no abatement of taxes for the underlying land value (and for purposes of this Agreement to be valued as undeveloped land).

D. DISTRIBUTOR acknowledges and agrees that the Base Year Value of the Property and the tax levy based on said Base Year Value of the Property in the Zone shall not decrease, but taxes may increase and that the amount of property taxes paid by DISTRIBUTOR to the CITY attributable to the Property during the Term shall not be less than the amount of taxes attributable to the Property paid to the CITY for the base year tax year, if any, except in the event of casualty or condemnation of the Property in the Zone.

E. DISTRIBUTOR shall have the right to protest appraisals of the Property, real or personal, or any portion thereof, over and above the Base Year Value as applicable.

7. **DEFAULT/TERMINATION/RECAPTURE**

A. For purposes of this section, "Relocation" or "Relocate" shall mean DISTRIBUTOR or a Related Organization which has taken the place of DISTRIBUTOR, transferring Business Activities to a location outside the Zone.

B. Should DISTRIBUTOR occupy and use the Property for its Business Activities and subsequently Relocates (as defined in this Article 7, Paragraph A) during the Term, unless such Relocation is caused by a Force Majeure, as defined in Article 8, then CITY shall have the right to terminate this Agreement by written notice to DISTRIBUTOR. Said termination shall be effective for the calendar year during which the Relocation occurred. Unless DISTRIBUTOR presents credible evidence to clearly indicate a date of Relocation, CITY's determination shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies DISTRIBUTOR in writing of termination.

C. If DISTRIBUTOR occupies and uses the Property for its Business Activities and subsequently ceases conducting Business Activities (or a substantial portion thereof) at the site for a period of three (3) consecutive months during the Term of this Agreement for any reason, except if such cessation is caused by a Force Majeure as defined in Article 8, then the CITY shall have the right to terminate this Agreement by written notice to DISTRIBUTOR. Said terminations shall be effective for the calendar year during which the Property is no longer used for the required purposes stated herein. Unless DISTRIBUTOR presents credible evidence to clearly indicate a date of cessation, CITY's determination of a date of cessation shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies DISTRIBUTOR in writing of termination.

D. If DISTRIBUTOR, a Related Organization or City-approved assignee fails to hire and retain the minimum number of permanent full-time employees as required in Article 5, Paragraph A above, calculated by the averaging of the two most current semi-annual Employee Wage Information for Tax Phase-In Request Forms, or substantially similar form, (Exhibit "E") for such calendar year of noncompliance, then for each such calendar year of noncompliance, the tax abatement shall be reduced in the following tax year by the same percentage as the deficiency in the number of employees. For example, if DISTRIBUTOR hires and retains ninety percent (90%) of the minimum number of full-time employees in a given year, DISTRIBUTOR shall be entitled to ninety percent (90%) of the ad valorem personal property tax abatement for the Property for that following year, subject to a floor of fifty percent (50%). Should DISTRIBUTOR fail to hire and retain at least fifty percent (50%) of the minimum number of full-time employees in a given year then, at the option of CITY, this failure may be grounds for termination of this Agreement by written notice from CITY to DISTRIBUTOR. Said termination shall be effective for the calendar year during which the minimum number of permanent full-time employees stated herein have not been hired or retained as required.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies DISTRIBUTOR in writing of termination.

E. During the Term, CITY may declare a default if DISTRIBUTOR fails to comply with any of the terms of this Agreement and such failure is not cured within the Cure Period, as defined below. Should CITY determine DISTRIBUTOR is in default under any of the terms of this Agreement, CITY will notify DISTRIBUTOR in writing at the

address below in Article 9. If said default is not cured within sixty (60) calendar days from the date of receipt by DISTRIBUTOR of such notice (hereinafter the “Cure Period”), then CITY shall have the right to terminate this Agreement by written notice to DISTRIBUTOR. CITY may, in its sole discretion, extend the Cure Period if DISTRIBUTOR commences the cure within the Cure Period and DISTRIBUTOR is diligently pursuing such cure. If the Agreement is terminated as a result of default, all taxes abated shall be due for the tax year during which the termination occurred and shall accrue without further abatements for all tax years thereafter; in addition, CITY shall have the right to recapture from DISTRIBUTOR all previously abated property taxes under this Agreement and said taxes shall be paid by DISTRIBUTOR within sixty (60) calendar days of receiving CITY’S written notification of recapture.

F. Other Remedies Available. CITY shall have the right to seek any remedy at law to which it may be entitled, in addition to termination and/or recapture, if DISTRIBUTOR defaults under the terms of this Agreement. However, such termination and/or recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which DISTRIBUTOR may be entitled. The termination and/or recapture of taxes provided in this Article 7 are not applicable to situations involving minor changes to the description of the Property, or changes in ownership or in management thereof, so long as DISTRIBUTOR, its parent, subsidiary, affiliate or its CITY-approved successor or assignee continues conducting Business Activities or other authorized activities thereon as provided hereinabove.

G. Calculation of Taxes Subject to Recapture. If DISTRIBUTOR defaults under any of the terms of this Agreement including, but not limited to, those pertaining to this Article 7 then the City Council shall have the right to recapture from DISTRIBUTOR a percentage of the abated personal property taxes based on the following table:

TERM YEAR	TOTAL TAX PREVIOUSLY ABATED SHALL BE MULTIPLIED BY:
1-10	100%
11-12	80%
13	60%
14	40%
15	20%
16	10%

FORMULA: The recapture formula shall be:

$$\begin{array}{rcccl}
 & & \text{Applicable Percentage} & & \text{Amount to be} \\
 \text{Total Taxes Abated} & \times & \text{from above Schedule} & = & \text{Recaptured}
 \end{array}$$

CITY shall recalculate the amount of recapture pertaining to each tax year utilizing the above formula. A bill for each year will then be sent to DISTRIBUTOR.

8. AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)

For purposes of this section, "Force Majeure" is defined as an act of God or natural disaster. It also includes explosion or other casualty or accident which is not the result of negligence, intentional act or misconduct on the part of DISTRIBUTOR. In addition to relief expressly granted in this Agreement, CITY may grant relief from performance of this Agreement if DISTRIBUTOR is prevented from compliance and performance by an event of Force Majeure. The burden of proof for the need for such relief shall rest upon DISTRIBUTOR. To obtain release based upon this Article 8, DISTRIBUTOR must file a written request with the CITY'S Economic Development Department for processing to City Council for a decision, authorized by a duly approved Ordinance.

9. NOTICE

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified. Any notice mailed in the above manner shall be effective upon its deposit into the custody of the United States Postal Service or such nationally recognized delivery service as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

TO DISTRIBUTOR:

- (Whether personally delivered or mailed):

Glazer's Wholesale Drug Company, Inc.
Attn: Jack Westenberg
14911 Quorum Drive, Suite 400
Dallas, Texas 75254

WITH COPY TO:

Prager & Miller, P.C.
Attn: Jerome L. Prager, Esq.
14911 Quorum Drive, Suite 320
Dallas, Texas 75254

TO GLAZER:

Glazer Investments, Inc.
Attn: Bennett J. Glazer, President
14911 Quorum Drive, Suite 400
Dallas, Texas 75254

WITH COPY TO:

Prager & Miller, P.C.
Attn: Jerome L. Prager, Esq.
14911 Quorum Drive, Suite 320
Dallas, Texas 75254

TO CITY:

- If mailed:

Economic Development Department
Attn: Director
P.O. Box 839966
San Antonio, Texas 78283-3966

- If by personal or overnight delivery:

Economic Development Department
Attn: Director
City Hall, 4th Floor
Military Plaza
San Antonio, Texas 78205

10. **CONDITION**

This Agreement is conditioned entirely upon the approval of the San Antonio City Council, as evidenced by duly approved Ordinance Number 2010-__-__-____, dated _____, 2010.

11. ASSIGNMENT

Except as otherwise expressly provided herein, this Agreement may be assigned or otherwise transferred only with City Council's prior approval (which approval shall not be unreasonably withheld or delayed), as reflected in a duly adopted ordinance. DISTRIBUTOR must submit a written request to CITY for approval of the proposed assignment or other transfer at least thirty (30) days prior to the effective date of the assignment or transfer of any part of the Property; however, no City Council consent is required for an assignment or transfer to a parent of DISTRIBUTOR, a subsidiary of DISTRIBUTOR, an affiliate entity of DISTRIBUTOR, or to any new entity created as a result of a merger, acquisition or other corporate restructure or reorganization of DISTRIBUTOR. However, DISTRIBUTOR shall give CITY prior written notice of all assignments or other transfers that do not require City Council consent, as required under Article 5, Paragraph P. All future assignees shall be bound by all terms and/or provisions and representations of this Agreement.

12. GENERAL PROVISIONS

A. None of the property improvements described in this Agreement are financed by tax increment bonds.

B. This Agreement is entered into subject to the rights of the holders of outstanding bonds of the CITY related to this project. No bonds for which the CITY is liable have been used to finance this project.

C. No amendment, modification, or alteration of the terms hereof shall be binding unless in writing dated subsequent to the date of this Agreement and duly authorized by the parties. DISTRIBUTOR acknowledges that City Council approval is required for any and all of these actions.

D. DISTRIBUTOR understands and agrees that if DISTRIBUTOR is a "business" and if the City's contribution under this Agreement is a "public subsidy" as that term is defined in Chapter 2264 of Subtitle F, Title 10 of the Government Code (80 (R) HB 1196), then DISTRIBUTOR is required to refund money, pursuant to 80(R) HB 1196, DISTRIBUTOR has received from City through this Agreement, in the event of a conviction of knowingly employing an undocumented worker, with repayment required within six months of final conviction. Interest shall accrue at the rate of .5% per month until the time of such repayment from the date of final conviction.

13. SPECIAL CONDITIONS AND TERMS

DISTRIBUTOR understands and agrees that if DISTRIBUTOR is a "business" and if the CITY's incentive under this Agreement is a "public subsidy" as that term is defined in Chapter 2264 of Subtitle F, Title 10 of the Government Code, as amended, then in the event of DISTRIBUTOR's conviction of knowingly employing an undocumented worker, DISTRIBUTOR shall return all funds that DISTRIBUTOR has received from CITY through this Agreement, with repayment required within six (6) months of final conviction. Interest shall accrue at the rate of .5% per month until the time of such repayment from the date of final conviction.

14. **SEVERABILITY**

In the event any section, subsection, paragraph, subparagraph, or sentence herein is held invalid, illegal or unenforceable, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, or sentence. In such event there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal and enforceable. This Agreement constitutes the entire Agreement between the parties hereto relating to the subject matter contained herein and supersedes all prior, oral or written agreements, commitments or understandings with respect to the matters provided for herein.

15. **ESTOPPEL CERTIFICATE**

Any party hereto may request an estoppel certificate related to this project (hereafter referred to as "Certificate") from another party hereto so long as the Certificate is requested in connection with a bona fide business purpose. The Certificate, which if requested, will be addressed to a subsequent purchaser or assignee of DISTRIBUTOR or other party designated by DISTRIBUTOR which shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default, if such is the case, the remaining Term of this Agreement, the levels of tax abatement in effect, and such other matters reasonably requested by the party(ies) to receive the Certificate.

16. **OWNER STANDING**

Each of GLAZER and DISTRIBUTOR, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same, and each of GLAZER and DISTRIBUTOR shall be entitled to intervene in said litigation.

17. **APPLICABLE LAW**

This Agreement shall be governed by, and construed under the laws of the State of Texas and is performable in Bexar County, Texas, the location of the ZONE.

18. **TRIPPLICATE ORIGINALS**

This Agreement shall be executed in quadruplicate originals, with an original delivered to each party and one to the City Clerk of the City of San Antonio.

Signatures appear on next page.

WITNESS OUR HANDS, EFFECTIVE as of August ____, 2010:

Accepted and executed in triplicate originals on behalf of the City of San Antonio pursuant to Ordinance Number 2010-__-__-____, dated _____, 2010, and Glazer's Wholesale Drug Company, Inc. pursuant to the authority of its President.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

**GLAZER'S WHOLESALE
DRUG COMPANY, INC.,** a
Texas corporation

Sheryl L. Sculley
CITY MANAGER

Name: _____
Title: _____

ATTEST

**GLAZER INVESTMENTS,
INC.,** a Texas corporation

Leticia Vacek
CITY CLERK

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

Michael Bernard
CITY ATTORNEY

EXHIBIT A: PROPERTY DESCRIPTION

EXHIBIT B: EMPLOYEE BENEFITS

EMPLOYMENT C: NUMBER OF JOBS AND WAGE INFORMATION FORM

LOH
11/18/10
Item #27B

AN ORDINANCE 2010-11-18-0997

ACCEPTING A \$400,000 DONATION FROM GLAZER'S WHOLESALE DRUG COMPANY, INC.; AND APPROVING A \$400,000 DONATION AGREEMENT WITH GLAZER'S FOR OPERATIONAL SUPPORT OF SAN ANTONIO FOR GROWTH ON THE EASTSIDE.

* * * * *

WHEREAS, Glazer's Wholesale Drug Company, Inc. ("Glazer's") is donating \$400,000.00 to the City for the benefit of San Antonio for Growth on the Eastside ("SAGE") for its operational support of Eastside initiatives; and

WHEREAS, a Donation Agreement with the City and Glazer's, included as Attachment I, outlines the disbursement and use of funds for the support of SAGE over a three-year period; and

WHEREAS, a funding agreement between SAGE and the City will also define how SAGE may use the funds donated by Glazer's; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council accepts a donation, in the amount of \$400,000 over a three-year period, from Glazer's Wholesale Drug Company, Inc. for the benefit of San Antonio for Growth on the Eastside.

SECTION 2. City Council also approves the Donation Agreement with Glazer's Wholesale Drug Company, Inc. governing the disbursement and use of funds donated in the amount of \$400,000 over a three-year period for operationAL support of San Antonio for Growth on the Eastside.

SECTION 3. Funds generated by this Ordinance in the amount up to \$400,000.00 will be deposited in a Special Revenue Fund to be used or created. The amount up to \$400,000.00 is authorized to be appropriated in this Special Revenue Fund with cost center and general ledger to be determined once the fund is identified.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers,

LOH
11/18/10
Item #27B

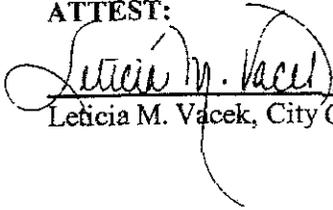
WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance shall be effective immediately upon the receipt of at least eight affirmative votes; in the event that less than eight (8) affirmative votes are received, then this Ordinance shall be effective on the tenth (10th) day after passage.

PASSED AND APPROVED this 18th day of November, 2010.

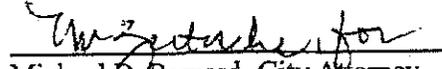

M A Y O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Michael O. Bernard, City Attorney

AN ORDINANCE 2010-11-18-0998

APPROVING A \$540,000 FUNDING AGREEMENT WITH SAN ANTONIO FOR GROWTH ON THE EASTSIDE FOR ECONOMIC DEVELOPMENT PURPOSES, OPERATIONS AND MARKETING; AND APPROPRIATING FUNDS.

* * * * *

WHEREAS, on November 20, 2008, City Council approved an economic development funding agreement with the South Texas Business Fund (“STBF”), the Westside Development Corporation (“WDC”) and San Antonio for Growth on the Eastside (“SAGE”) whereby STBF would serve as fiscal agent for WDC and SAGE for \$500,000.00 in Economic Development Incentive Fund (“EDIF”) funds for the respective entities’ business assistance and community investment programs; and

WHEREAS, City Council allocated \$250,000.00 each for the WDC and SAGE and, pursuant to the agreement, these funds have been used for WDC and SAGE programs that combine loans, grants, investments and endowments for facilitating economic development in targeted areas to generate revenue for these economic development entities; and

WHEREAS, the boards of the WDC and SAGE had final review and approval authority for funding projects that promoted development and investment in their targeted areas; and

WHEREAS, the STBF Trustees and Board of Directors passed a Resolution on March 9, 2010 to merge with ACCION Texas, Inc. (“ACCION TX”) and signed a Memorandum of Understanding (MOU) outlining the merger conditions and, on May 11, 2010, passed a Resolution adopting a Plan of Merger; and

WHEREAS, City Council approved an Ordinance on May 13, 2010, approving the release and transfer of STBF assets, grant/loan funds and obligations to ACCION, Texas which terminated the STBF Agreement with the City, WDC and SAGE; and

WHEREAS, in the FY 2011 budget approved by City Council on September 16, 2010, funding was approved for the WDC and SAGE in the amounts of \$100,000.00 each from the EDIF toward the corporations’ business assistance and community investment programs; and

WHEREAS, separate new funding agreements are necessary and are contingent upon respective board approval; and

WHEREAS, SAGE will serve as its own fiscal agent, and ACCION TX will serve as SAGE’s underwriting and servicing agent for any grants and loans made by the organization; and

WHEREAS, the approved FY 2011 budget also allocated \$40,000.00 from the General Fund for the benefit of SAGE for additional economic development purposes; and

WHEREAS, Glazer's Wholesale Drug Company, Inc. (Glazer's) is donating \$400,000.00 to the City for the benefit of SAGE for its operational support of Eastside initiatives and a Donation Agreement between the City and Glazer's will outline the disbursement and use of funds for the support of SAGE over a three-year period; and

WHEREAS, the funding agreement between SAGE and the City that governs the use of the above-mentioned EDIF and General Fund allocations will also define how SAGE may use the funds donated by Glazer's; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council approves the funding agreement with San Antonio for Growth on the Eastside ("SAGE") attached hereto and incorporated herein as Attachment I for economic development purposes, operations and marketing, contingent upon SAGE Board approval.

SECTION 2. The amount of \$100,000.00 for this Ordinance was previously appropriated in Fund 29059000, Internal Order 390000001226 and General Ledger 6102100, as part of the Fiscal Year 2011 Budget.

SECTION 3. The transfer of \$100,000.00 is authorized from Fund 29059000 to San Antonio for Growth on the Eastside (SAGE).

SECTION 4. Funding in the amount not to exceed \$40,000.00 for this Ordinance is available in Fund 11001000, Cost Center 7001990049, General Ledger 5201040, as part of the Fiscal Year 2011 Budget.

SECTION 5. Funding in the amount not to exceed \$400,000.00 for this Ordinance is available in a Special Revenue Fund to be identified, with cost center and general ledger to be determined once the fund is identified.

SECTION 6. Payment not to exceed the budgeted amount of \$540,000.00 is authorized to SAGE and should be encumbered with a purchase order.

SECTION 7. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

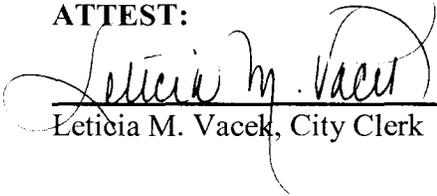
SECTION 8. This Ordinance shall be effective immediately upon the receipt of at least eight affirmative votes; in the event that less than eight (8) affirmative votes are received, then this Ordinance shall be effective on the tenth (10th) day after passage.

PASSED AND APPROVED this 18th day of November, 2010.



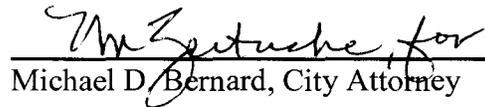
M A Y O R
Julián Castro

ATTEST:

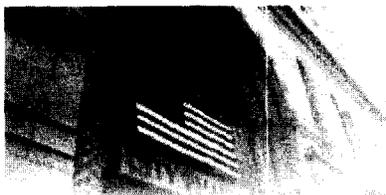


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

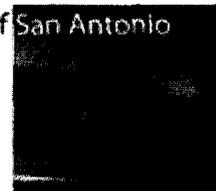


Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**

City of San Antonio



Agenda Voting Results - 27C

Name:	5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17A, 17B, 17C, 17D, 17E, 17F, 19, 21, 22, 23, 24, 25, 26A, 26B, 27A, 27B, 27C, 28, 29, 31						
Date:	11/18/2010						
Time:	09:31:09 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a \$540,000.00 Funding Agreement with SAGE for economic development purposes, operations and marketing; and appropriating funds.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x			x	
Philip A. Cortez	District 4	x					
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9	x					
John G. Clamp	District 10		x				x

ATTACHMENT I

STATE OF TEXAS

COUNTY OF BEXAR

§
§
§
§

**AGREEMENT TO USE FUNDS OF
THE CITY OF SAN ANTONIO**

This Agreement ("AGREEMENT") is hereby made and entered into by and between the CITY OF SAN ANTONIO (hereinafter referred to as "CITY"), a Texas municipal corporation acting by and through its City Manager pursuant to Ordinance No. _____, dated _____ and San Antonio for Growth on the Eastside, Inc. ("SAGE"), a Texas non-profit corporation; collectively, the "Parties".

WHEREAS, the City Council (the "Council") of the CITY has recognized the community revitalization efforts and mission of SAGE to serve historically underutilized areas of the City; and

WHEREAS, in furtherance of these efforts, the Council expressed support for SAGE in its efforts to form a business assistance and community revitalization program for economic development purposes (the "Program"); and

WHEREAS, to further assist SAGE in its Program efforts, ACCION Texas ("Accion") has agreed to serve as the underwriting and servicing agent of SAGE loans issued pursuant to the Program; and

WHEREAS, CITY has provided certain funds from its Economic Development Incentive Fund (EDIF) and General Fund for use by SAGE as a one-time allocation from the CITY's adopted budget; and

WHEREAS, CITY designates its Center City Development Office as the City Department, acting for its City Manager, responsible for the evaluation and monitoring of this AGREEMENT (hereinafter referred to as "CITY's RESPONSIBLE DEPARTMENT"). The Department of Finance and other City departments will function in a supporting role; and

WHEREAS, CITY now wishes to engage SAGE in meeting such objectives and following such procedures as described in this AGREEMENT and in ATTACHMENT I of this Contract pursuant to the Program; **NOW THEREFORE**:

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described:

I. GENERAL PROVISIONS

1. SAGE is a non-profit corporation governed by a Board of Directors with a mission of advocating and working for the area business community toward the building and sustaining of a diverse and prosperous economy.
2. SAGE, in furtherance of its mission, provides loans and grants to small, diverse businesses that are unable to obtain full or partial financing through standard banking institutions.
3. SAGE agrees by the execution of this AGREEMENT to comply with any and all provisions of this AGREEMENT and accept administrative and fiscal responsibility for the use and documentation of expenditures of funds provided by CITY.
4. SAGE represents, warrants, assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or

taken, to enter into this AGREEMENT and to perform the responsibilities herein required.

5. The signer of this AGREEMENT for SAGE represents, warrants, assures and guarantees that he or she has full legal authority to execute this AGREEMENT on behalf of SAGE and to bind SAGE to all terms, performances and provisions herein contained.
6. In the event that a dispute arises as to the legal authority of either SAGE, or the person signing on behalf of SAGE, to enter into this AGREEMENT, CITY shall have the right, at its option, to either temporarily suspend or permanently terminate this AGREEMENT. Should CITY suspend or permanently terminate this AGREEMENT pursuant to this paragraph, however, SAGE shall be liable to CITY for any money it has received from CITY for performance of any of the provisions herein.
7. SAGE understands that the funds provided pursuant to this AGREEMENT are funds which have been made available by CITY's EDIF fund and General fund and SAGE will, therefore, comply with all rules, regulations, policies and procedures applicable to these funds as directed by CITY.
8. SAGE and CITY agree that SAGE is an independent contractor, that SAGE shall be responsible to all Parties for its respective acts and omissions, and that CITY shall in no way be responsible therefore, and that neither has authority to bind the other, or hold out to third parties that it has the authority to bind the other.
9. SAGE understands and agrees that this AGREEMENT is subject to mutual termination. Therefore, either Party shall have the option of terminating this AGREEMENT by giving the other Party no less than thirty (30) days written notice. Such notice shall specify the effective date of termination, which date shall not be sooner than the end of thirty (30) days following the day on which such notice is sent. If either Party exercises the option of terminating this AGREEMENT, any and all unused funds either allocated and in possession of SAGE or unallocated and in the possession of CITY shall be the sole property of CITY and CITY shall have the right to: (1) reclaim any and all funds unused but distributed to SAGE under the terms of this AGREEMENT; or (2) retain any and all funds allocated but not distributed to SAGE.
10. SAGE understands and agrees that this AGREEMENT may be revised and updated by and at the discretion of the City Council of the City of San Antonio. Therefore, SAGE agrees that, at such time as any revisions are so made during the term hereof, this AGREEMENT will be amended to include such revisions. In the event that SAGE does not agree to any changes, SAGE shall have the option of terminating this AGREEMENT by giving thirty (30) days written notice to CITY. SAGE shall have the right to exercise such option within thirty (30) days of receipt of notice of any such revisions.
11. SAGE understands and agrees that this AGREEMENT is subject to a general reduction in funding. If and when CITY implements a reduction in EDIF Fund and/or General Fund expenditures, agreements funded by CITY's EDIF Fund and/or General Fund, including this AGREEMENT may, at CITY's option, be reduced in a like manner. CITY will attempt to provide SAGE with as much advance notice of a potential funding reduction as is possible to allow SAGE to make budget adjustments.
12. In no event shall CITY be liable for any expense of SAGE not eligible or allowable hereunder.
13. Should SAGE fail to fulfill in a timely and proper manner the obligations under this AGREEMENT, as determined solely by the Director of the City's RESPONSIBLE DEPARTMENT or if SAGE should violate any of the covenants, conditions or

stipulations of this AGREEMENT, CITY shall have the right to terminate this AGREEMENT by sending written notice to SAGE of such termination and specifying the effective date thereof, which date shall not be sooner than the end of thirty (30) days following the day on which such notice is sent.

- a. Previous breach of any of the terms or conditions herein shall not be construed as a waiver of same nor preclude CITY's termination right for successive breach of the same condition.
 - b. Notwithstanding the above, SAGE shall not be relieved of liability to CITY for damages sustained by CITY by virtue of any breach of this AGREEMENT and CITY may withhold funds otherwise due as damages.
 - c. In addition to the above provisions, the City Council shall have the right to terminate this Agreement at any time upon a finding by ordinance that SAGE's activities, programs or operations no longer are in the best interest of the City of San Antonio or its citizens. Adequate provisions shall be made for SAGE to be heard by the City Council prior to voting on such an ordinance. The effective date of the termination shall be set in the ordinance.
14. Should this AGREEMENT be terminated by any Party for any reason and the program objectives not fully completed as stated in Section II of this AGREEMENT as determined solely by CITY after consultation with SAGE, SAGE shall refund unused funds either allocated and in possession of SAGE or unallocated and in the possession of CITY shall be the sole property of CITY and CITY shall have the right to: (1) reclaim any and all funds unused but distributed to SAGE under the terms of this AGREEMENT; or (2) retain any and all funds allocated but not distributed to SAGE.
 15. Except as otherwise provided for pursuant to the provisions hereof, this Agreement shall begin on _____, 2010 and shall terminate on _____, 2011. This AGREEMENT may be renewed annually, for up to two (2) years, subject to appropriation of funds by City Council.
 16. SAGE shall establish and use internal accounting and administrative controls to preclude theft, embezzlement, improper inducement, obstruction of investigation or other criminal action and to prevent frauds and program abuse. CITY shall review, and SAGE shall allow review of, SAGE's system of internal administrative and accounting controls, as it deems necessary to ensure financial responsibility.
 17. SAGE warrants that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon any other agreement or understanding for a commission, percentage, brokerage, or contingent fee, and further that no such understanding or agreement exists or has existed, with any employee of SAGE or CITY.
 18. SAGE may leverage funds provided hereunder either directly or indirectly as a contribution in order to obtain any federal funds under any federal program that is consistent with the program objectives herein, upon prior written approval by CITY's RESPONSIBLE DEPARTMENT.
 19. SAGE is authorized to publicly acknowledge that the City of San Antonio is supportive of the objectives as described in this AGREEMENT and ATTACHMENT I and has contributed to the cause of realizing such objectives.
 20. SAGE acknowledges that this AGREEMENT cannot be assigned without the express written consent of CITY's RESPONSIBLE DEPARTMENT.

21. SAGE shall not use funds from this AGREEMENT for purposes other than those listed in Section II of this Contract without prior written consent of the CITY's RESPONSIBLE DEPARTMENT.

II. SCOPE OF SERVICES

1. SAGE shall utilize up to one hundred thousand dollars (\$100,000.00) provided by CITY from its EDIF Fund for the funding or partial funding of SAGE toward its Program. All funds utilized shall be in compliance with the CITY's EDIF Fund Guidelines and shall be used only for economic development purposes. These funds shall be advanced and distributed to SAGE in one amount, to be distributed soon after the effective date of a duly passed ordinance by the City Council of the City of San Antonio authorizing the execution of this AGREEMENT.
2. SAGE shall utilize up to forty thousand dollars (\$40,000.00) provided by CITY from its General Fund for the funding or partial funding of SAGE for any economic development purpose. All funds utilized shall be in compliance with the CITY'S EDIF Fund Guidelines and shall be used only for economic development purposes. These funds shall be advanced and distributed to SAGE in one amount, to be distributed soon after the effective date of a duly passed ordinance by the City Council of the City of San Antonio authorizing the execution of this AGREEMENT.
3. CITY shall provide four hundred thousand dollars (\$400,000.00) to SAGE, contingent upon said funds being donated by Glazer's Wholesale Drug Company, Inc. d/b/a Glazer's Distributors ("Glazer's") to CITY on behalf of SAGE for its operating expenses and pursuant to the Donation Agreement between Glazer's and CITY, attached hereto and incorporated herein in substantially final form as Attachment II. These funds shall be remitted to SAGE in annual installments following and contingent upon Glazer's donation to CITY, subject to the donation schedule indicated in Paragraph 1 of the Donation Agreement in Attachment II. SAGE shall also fulfill the following requirements:
 - a. SAGE shall provide CITY's RESPONSIBLE DEPARTMENT with proper documentation verifying receipt of year 2010 and 2011 funding commitments from all other specified sources for SAGE, if any.
 - b. SAGE shall provide CITY's RESPONSIBLE DEPARTMENT quarterly budget reports outlining contributions and expenditures (to include all sources of funding).
 - c. SAGE shall submit all required and requested documents to CITY's RESPONSIBLE DEPARTMENT for proper review of SAGE expenditures and activities. Any requests for Fiscal Year 2012 funding must be submitted to CITY's RESPONSIBLE DEPARTMENT by June 1, 2011.
4. The CITY's RESPONSIBLE DEPARTMENT is assigned monitoring responsibility for this AGREEMENT. SAGE will provide CITY's staff, including internal auditors, EEO officers and other persons as designated by CITY, such as independent public accountants, access during regular business hours, as deemed necessary by CITY for the purposes of auditing, monitoring, evaluating, coordinating, investigating and making excerpts and/or copies of any and all of SAGE's books, records and files on the objectives covered by this AGREEMENT. SAGE understands that CITY may require any and all books, records and files of SAGE necessary to ensure SAGE's compliance and use of generally accepted governmental accounting principles.

- a. All such records shall continue to be available for inspection and audit for a period of five (5) years after the termination date hereof. However, if an audit or investigation of SAGE begins during the course of this five-year period, then SAGE is required to maintain said records until such time as the audit or investigation is completely finished.
 - b. SAGE agrees that during the term of this AGREEMENT, any duly authorized representative of CITY's RESPONSIBLE DEPARTMENT shall have the right to conduct on-site inspections at reasonable times and to interview personnel and clients for the purposes of evaluating and monitoring the objectives for compliance with this AGREEMENT.
 - c. The submission of falsified information or the failure to timely submit all information by SAGE as requested by CITY is grounds for termination of this AGREEMENT.
5. SAGE agrees to abide by the CITY's current Ethics Code or any amendment or revisions thereto. SAGE will establish safeguards to prohibit anyone whose position is funded or partially funded by this AGREEMENT from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or those with whom they have family, business or other ties. CITY may, at its option, cancel this AGREEMENT for any violation of this section.
 6. SAGE agrees to establish internal procedures that ensure employees funded or partially funded by this AGREEMENT have an established complaint and grievance policy.
 - a. Such grievance policy will include procedures to receive, investigate and resolve complaints and grievances in an expeditious manner.
 - b. In the event no complaint and grievance policy has been established, SAGE will follow the procedures outlined in the San Antonio Municipal Civil Service rules in regard to employees funded or partially funded by this AGREEMENT.

III. FISCAL MANAGEMENT

1. An accounting system using generally accepted accounting principles for governmental entities which accurately reflects all costs chargeable (paid and unpaid) to this AGREEMENT is mandatory.
2. SAGE will establish an account in a commercial bank as a depository for receipt and expenditure of all funds provided hereunder. A separate account shall be maintained for funds under this AGREEMENT to assure separation of funds, unless otherwise approved by the CITY's RESPONSIBLE DEPARTMENT.
3. No fees may be charged to or donations requested from participants in any CITY-funded agreement without the prior written approval of the CITY's RESPONSIBLE DEPARTMENT.
4. **To the extent allowed by law, SAGE covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature including, but not limited to, personal or bodily injury, death and property damage made upon the CITY directly or indirectly arising out of, resulting from or related to SAGE'S activities under this Agreement, including any**

acts or omissions of SAGE, any agent, officer, director, representative, employee, consultant or subcontractor of SAGE, and their respective officers, agents employees, directors and representatives while in the exercise of performance of the rights or duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death or property damage. **IN THE EVENT SAGE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity. SAGE shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or SAGE that is known to SAGE, related to or arising out of SAGE's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at SAGE's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving SAGE of any of its obligations under this paragraph.

5. Upon completion or termination of the objectives as described in this AGREEMENT, any unused funds, rebates or credits must immediately be returned by SAGE to CITY.
6. SAGE shall not be relieved of liability to CITY for damages sustained by CITY by virtue of any breach of this AGREEMENT and CITY may withhold funds otherwise due as damages.
7. Should any expense or charge that has been paid with funds from this AGREEMENT be subsequently disapproved or disallowed as a result of any site review or audit, SAGE will immediately refund such amount to CITY. SAGE further authorizes CITY, if CITY so elects, to deduct such amount or charge as a claim against future payments, if any. The CITY's RESPONSIBLE DEPARTMENT has the express authority to deduct such claims from subsequent reimbursements.
8. Audit Conditions and Requirements:
 - a. CITY, a political entity, unlike a business for profit, is more interested in knowing if agencies have accomplished or achieved the objectives as stipulated in their contracts and/or agreements, as opposed to certifications that the Balance Sheet fairly represents the financial position at a given date. Therefore, it is essential that City is made aware of progress made upon this AGREEMENT. Following 30 days after a written request by City, SAGE shall submit a written report stating what has been accomplished to date and the most current percentage of completion of the total contract that has been performed.
 - b. It is imperative any auditor performing an audit of SAGE read the entire AGREEMENT, including all attachments, between the CITY and SAGE, since the budget and financial compliance of the AGREEMENT is only a portion of the total contractual obligation.
 - c. All CITY-funded contracts and agreements, including this AGREEMENT, are subject to periodic audits at any reasonable hour of the day by CITY auditors. This

includes the auditing of both SAGE and subcontractors related to this AGREEMENT.

- d. If SAGE expends \$50,000.00 or more in general fund dollars during the term of this contract, then SAGE shall furnish the CITY'S RESPONSIBLE DEPARTMENT and other City Departments designated by the RESPONSIBLE DEPARTMENT with audited financial statements, prepared by an independent auditor (CPA), within one hundred and twenty (120) days of the close of SAGE's fiscal year or within thirty days of the completion of any audit performed. In addition to the audited financial statements, a copy of any internal controls review, audit exceptions and management letter should be submitted. The audited financial statements must include a schedule of receipts and disbursements by budgeting cost category and a certification from SAGE stating whether or not the terms and conditions of the contract were met. If the CITY determines, in its sole discretion, that SAGE is in violation of the above requirements, the CITY shall have the right to dispatch auditors of its choosing to conduct the required audit and to have SAGE pay for such audit. In addition, when SAGE has expended federal or state funds that exceed the single audit threshold amount in effect during the period of this contract, the audit shall be conducted in accordance with the Single Audit Act Amendments of 1996 and the U.S. Office of Management and Budget Circular A-133 (latest revision), and/or the State of Texas Single Audit Circular.
9. SAGE understands and agrees to abide by and adhere to applicable federal, state and CITY provisions regarding financial accounting.

IV. INSURANCE REQUIREMENTS

1. Prior to the commencement of any work under this Agreement, SAGE shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Responsible Department, which shall be clearly labeled "San Antonio for Growth on the Eastside Agreement To Use Funds" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Responsible Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.
2. The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.
3. SAGE's financial integrity is of interest to the City; therefore, subject to SAGE's right to maintain reasonable deductibles in such amounts as are approved by the City, SAGE shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at SAGE's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1.. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations *b. Independent contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability f. Damage to property rented by you	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage \$100,000
2. Directors and Officers (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	\$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

4. SAGE agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of SAGE herein, and provide a certificate of insurance and endorsement that names the SAGE and the CITY as additional insureds. SAGE shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

5. As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). SAGE shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. SAGE shall pay any costs incurred resulting from said changes.

City of San Antonio
 Attn: _Int'l & Economic Development Dept.
 P.O. Box 839966
 San Antonio, Texas 78283-3966

6. SAGE agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
 - Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
 - Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.
7. Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, SAGE shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend SAGE's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
 8. In addition to any other remedies the City may have upon SAGE's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order SAGE to stop work hereunder, and/or withhold any payment(s) which become due to SAGE hereunder until SAGE demonstrates compliance with the requirements hereof.
 9. Nothing herein contained shall be construed as limiting in any way the extent to which SAGE may be held responsible for payments of damages to persons or property resulting from SAGE's or its subcontractors' performance of the work covered under this Agreement.
 10. It is agreed that SAGE's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.
 11. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..
 12. SAGE and any Subcontractors are responsible for all damage to their own equipment and/or property.

V. EQUAL EMPLOYMENT OPPORTUNITY POLICY

1. SAGE agrees to post in a conspicuous place available to employees and applicants for employment funded or partially funded under this AGREEMENT, notices to be provided by the contracting officer setting forth the provisions of this Nondiscrimination Clause.
2. SAGE will, in all solicitations or advertisements for employees placed by or on behalf of SAGE, state that all qualified applicants will receive fair consideration for employment

without regard to race, color, national origin, religion, sex, age, disability, or political belief or affiliation.

3. SAGE agrees to affirmatively abide by and cooperate in the implementation of the policies and practices set forth in this Nondiscrimination Clause and any additional policies as may be required as a result of local, state or federal initiatives. SAGE will furnish all information and reports requested by CITY and will permit access to books, records and accounts for purpose of review and investigation to ascertain compliance with such rules and regulations.
4. In the event of SAGE's failure or refusal to comply with this Nondiscrimination Clause, this AGREEMENT may be canceled, terminated or suspended in whole or in part, and SAGE may be debarred from further contracts with CITY.

VI. FURTHER REPRESENTATIONS, WARRANTIES AND COVENANTS

1. SAGE further represents and warrants that:
 - a. All information, data or reports heretofore or hereafter provided to CITY shall be and shall remain complete and accurate as of the date shown on the information, data or report, and that since said date shown, shall not have undergone any significant change without written notice to CITY;
 - b. Any supporting financial statements heretofore or hereafter provided to CITY are, shall be and shall remain complete, accurate and fairly reflective of the financial condition of SAGE on the date shown on said statements and during the period covered thereby, and that since said date shown, except as provided by written notice to CITY, there has been no material change, adverse or otherwise, in the financial condition of SAGE;
 - c. No litigation or proceedings are presently pending or threatened against SAGE or if pending have been disclosed by SAGE in writing to CITY;
 - d. None of the provisions contained herein contravene or in any way conflict with the authority under which SAGE is doing business, or with the provisions of any existing indenture or agreement of SAGE;
 - e. SAGE has the legal authority to enter into this AGREEMENT and accept payments hereunder, and has taken all necessary measures to authorize such execution of AGREEMENT and acceptance of payments pursuant to the terms and conditions hereof; and
 - f. None of the assets of SAGE are subject to any lien or encumbrance of any character, except as shown in the financial statements provided by SAGE to CITY.

VII. LEGAL/LITIGATION EXPENSES

1. Under no circumstances will the funds received under this AGREEMENT or any other funds received from CITY be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the CITY. SAGE must obtain the written approval of the City Attorney's Office before any funds received under this AGREEMENT may be used in any adversarial proceeding against any other governmental entity or any other public entity.
2. During the term of this AGREEMENT, if SAGE files and/or pursues an adversarial proceeding against the CITY then, at the CITY's option, this AGREEMENT and all

access to the funding provided for hereunder may terminate if it is found that SAGE has violated this Article.

3. SAGE, at the CITY's option, could be ineligible for consideration to receive any future funding while any adversarial proceedings against the CITY remains unresolved.
4. For purposes of this Article, "adversarial proceedings" include any cause of action filed by SAGE in any state or federal court, as well as any state or federal administrative hearing, but does not include Alternative Dispute Resolution proceedings.

VIII. CHANGES AND AMENDMENTS

1. Except when the terms of this AGREEMENT expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both CITY and SAGE.
2. It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this AGREEMENT and that any such changes shall be automatically incorporated into this AGREEMENT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

IX. SEVERABILITY OF PROVISIONS

If any clause or provision of this AGREEMENT is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this AGREEMENT shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this AGREEMENT that is invalid, illegal, or unenforceable, there be added as a part of this AGREEMENT a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

X. NON-WAIVER OF PERFORMANCE

1. No waiver by CITY of a breach of any of the terms, conditions, covenants or guarantees of this AGREEMENT shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of CITY to insist in any one or more cases upon the strict performance of any of the covenants of this AGREEMENT, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by any Party hereto of any provision of this AGREEMENT shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged.
2. No act or omission of CITY shall in any manner impair or prejudice any right, power, privilege, or remedy available to CITY hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.
3. No representative or agent of CITY may waive the effect of the provisions of this Article.

XI. SPECIAL CONDITIONS

1. All SAGE invoices for eligible expenditures pursuant to this AGREEMENT must be submitted to CITY’s RESPONSIBLE DEPARTMENT by SAGE no later than ninety (90) days after SAGE incurs the expense.
2. SAGE understands and agrees that SAGE is required to refund money, pursuant to 80(R) HB 1196, that SAGE has received from CITY through this Agreement, in the event of SAGE’s conviction of knowingly employing an undocumented worker, with repayment required within six months of final conviction. Interest shall accrue at the rate of .5% per month until the time of such repayment from the date of final conviction.

XII. ENTIRE AGREEMENT

This AGREEMENT constitutes the final and entire agreement between the Parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this AGREEMENT shall be deemed to exist or to bind the Parties hereto unless same be in writing, dated subsequent to the date hereof, and duly executed by the Parties.

XIII. NOTICE

1. For purposes of this AGREEMENT, all official communications and notices among the Parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

Director
Center City Development Office
P.O. Box 839966
San Antonio, Texas 78283-3966

SAGE:

Executive Director
San Antonio for Growth on the Eastside
1149 East Commerce Street
San Antonio, Texas 78205

and

City Attorney’s Office
Commerce & Visitor’s Services
City Hall, 3rd Floor
San Antonio, Texas 78205

2. Notice of changes of address by any Party must be made in writing and delivered (or mailed, registered or certified mail, postage prepaid) to the other Party’s last known address within five (5) business days of such change.

XIV. PARTIES BOUND

This AGREEMENT shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, except as otherwise expressly provided for herein.

XV. GENDER

Words of gender used in this AGREEMENT shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XVI. RELATIONSHIP OF PARTIES

Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third party as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the Parties hereto.

XVII. TEXAS LAW TO APPLY

THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

XVIII. CAPTIONS

The captions contained in this AGREEMENT are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this AGREEMENT.

EXECUTED IN DUPLICATE ORIGINALS this _____ day of _____ 2010.

CITY OF SAN ANTONIO

SAN ANTONIO FOR GROWTH
ON THE EASTSIDE

Sheryl Sculley
City Manager

Jackie L. Gorman-Johnson
Executive Director

ATTEST:

Leticia Vacek
City Clerk

APPROVED AS TO FORM:

Leslie Orton Haby
Assistant City Attorney

ATTACHMENT I

Business Assistance and
Community Investment Program (the "Program")
Utilizing Appropriated EDIF Funds

Fiscal Agent: SAGE – SAGE will maintain a separate checking account for EDIF funds

Potential Use of Funds for Economic Development Purposes:

1. Loans to businesses/projects (pursuant to Loan Guidelines and in compliance with EDIF Guidelines)
2. Grants to businesses/projects

Process Flow of Funds:

Loan Program -

- a. SAGE will maintain a loan servicing agreement with ACCION Texas; SAGE will use its existing loan guidelines and parameters
2. SAGE staff source loan opportunities in the Eastside of San Antonio.
3. Once identified, loan is presented for approval to:
 - a. ACCION Loan Officers (for review and recommendation)
 - b. SAGE Project Development Committee
 - c. SAGE Board of Directors for final approval.
4. If approved, ACCION prepares the loan documents and serves as Loan Administrator to service loans and maintain accounting reports evidencing loan performance. SAGE staff will be available to ACCION staff to assist in servicing.

Grant Program --

1. SAGE will identify grant opportunities for businesses or projects in the Eastside of San Antonio.
2. Once identified, grant is proposed to:
 - a. SAGE Project Development Committee
 - b. SAGE Board of Directors (Board action required)
 - c. If approved, grant is made to business/project under an Economic Development Grant Agreement with performance measures.
 - d. SAGE disburses grant to designated/contracted recipient in accordance with the terms of the Grant Agreement.

Reporting

1. SAGE will provide quarterly reports on the use of these funds to include:
 - a. Loan Program
 - i. Number of Applications Received
 - ii. Number of Loans Awarded
 - iii. Name of Recipient Business, Description of Project, Dollar Amount of Loan and Loan Terms on each individual loan
 - iv. Total dollar amount of loans awarded during the period
 - v. Total dollar amount of loans awarded over the life of the fund
 - vi. Total dollar amount of payments received on loans during reporting period
 - vii. Number and total dollar amount of loans in default (if any)
 - b. Grant Program
 - i. Number of Applications Received
 - ii. Number of Grants Awarded
 - iii. Name of Recipient Business, Description of Project and Dollar Amount of Grant
 - iv. Total dollar amount of grants awarded during the period
 - v. Total dollar amount of grants awarded during the life of the fund

ATTACHMENT II

4. All alterations, additions, or deletions to the terms of this Agreement shall be by amendment in writing executed by both CITY and GLAZER's, and subject to the approval of the City Council of the City of San Antonio, when such approval is required.

5. If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws including, but not limited to, the City Charter, City Code or City ordinances, then, and in that event, it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

6. No waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either Party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged.

7. No act or omission of a Party shall in any manner impair or prejudice any right, power, privilege or remedy available to such Party hereunder or by law or in equity, such rights, powers, privileges, or remedies are specifically preserved by this Agreement.

8. This Agreement constitutes the final and entire agreement between the Parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto, unless this Agreement is amended as required in Paragraph 4.

9. In the event any disagreement or dispute should arise between the Parties hereto pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, regulations, laws, codes or ordinances, CITY shall use reasonable rules of construction, but shall have the final authority to render or secure an interpretation.

10. For purposes of this Agreement, all official communications and notices among the Parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

GLAZER'S:

Pat DiGiovanni, Deputy City Manager
100 Military Plaza
San Antonio, Texas 78205

Jack Westenberg, Vice President
14911 Quorum Drive, Suite 400
Dallas, Texas 75254

with a copy to:

Alan N. Greenspan
Executive Vice President & General Counsel
14911 Quorum Drive, Suite 400
Dallas, Texas 75254

11. GLAZER's covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of CITY and that the doctrine of *respondeat superior* shall not apply as between CITY and GLAZER's, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between CITY and GLAZER's.

12. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Bexar County, Texas.

13. This Agreement shall commence upon final execution and expire sixty (60) days after full compliance by GLAZER's with Paragraph 1.

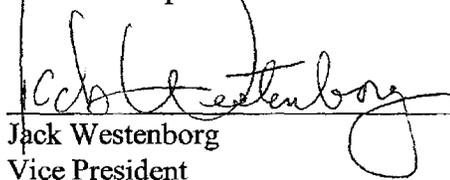
14. This Agreement shall automatically terminate in the event of termination of the tax abatement agreement between the Parties concerning the Property.

EXECUTED in duplicate originals this ____ day of _____ 2010.

CITY OF SAN ANTONIO
A Texas Municipal Corporation

Pat DiGiovanni
Deputy City Manager

GLAZER'S WHOLESALE DRUG COMPANY, INC.
d/b/a **GLAZER'S DISTRIBUTORS**
A Texas Corporation



Jack Westenborg
Vice President

ATTEST:

Leticia Vacek
City Clerk

APPROVED AS TO FORM:

Leslie O. Haby
Assistant City Attorney

AN ORDINANCE **2012-02-02-0080**

APPROVING A DONATION AGREEMENT FOR \$75,000.00 OVER THREE (3) YEARS FROM GLAZER'S, INC. TO THE CITY FOR THE BENEFIT OF TARGETED AREA REDEVELOPMENT, SUCH AS THE CITY'S WESTSIDE.

* * * * *

WHEREAS, Glazer's, Inc. ("Glazer's") is donating \$75,000.00 to the City for the benefit of targeted area redevelopment such as redevelopment of the City's westside; and

WHEREAS, a Donation Agreement with the City and Glazer's, included as **Attachment I**, outlines the disbursement and use of funds over a three-year period; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council accepts a donation, in the amount of \$75,000 over a three-year period, from Glazer's, Inc. for the benefit of targeted area redevelopment.

SECTION 2. City Council approves the Donation Agreement with Glazer's, Inc. governing the disbursement and use of funds donated over a three-year period and authorizes the City Manager or her designee to sign the Agreement, a final copy of which is set out in **Attachment I**.

SECTION 3. Donated proceeds in the amount up to \$75,000.00 will be recorded as revenue in Fund 29071000, Internal Order 223000000169 and General Ledger 4202260.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance shall be effective immediately upon the receipt of at least eight affirmative votes; in the event that less than eight (8) affirmative votes are received, then this Ordinance shall be effective on the tenth (10th) day after passage.

RR
02/02/12
Item #22C

PASSED AND APPROVED this 2nd day of February, 2012.



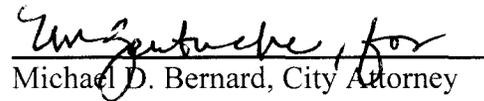
M A Y O R
Julián Castro

ATTEST:

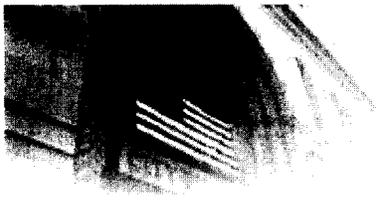


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

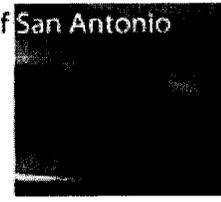


Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 22C

Name:	6, 7, 9, 10, 11, 12, 13, 14A, 14B, 14C, 14D, 14E, 14F, 16, 17, 18, 19, 20, 22A, 22B, 22C						
Date:	02/02/2012						
Time:	10:31:09 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a Donation Agreement for \$75,000.00 over 3 years to the City for the benefit of targeted area redevelopment, such as the Westside.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2	x					
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				x
Carlton Soules	District 10	x					

ATTACHMENT I

STATE OF TEXAS §
 § DONATION AGREEMENT
COUNTY OF BEXAR §

This AGREEMENT is entered into by and between the City of San Antonio, a Texas Municipal Corporation (“CITY”), acting by and through its City Manager or designee, pursuant to Ordinance No. 2012-01-_____, passed and approved on January ____, 2012, and Glazer’s, Inc. *dba* Glazer’s Distributors (“GLAZER’s”), a Texas Corporation, acting by and through its Vice President of Operations, Mr. Pat McNamara, (collectively the “Parties”).

WHEREAS, GLAZER’s plans to construct a state-of-the-art facility at the Southwest Business and Technology Park located on the southeast corner of State Highway 151 and S. Callaghan Road (the “Property”); and

WHEREAS, GLAZER’s plans to invest \$32 million in the Property and create 100 jobs and retain 350 jobs at the Property, which is located within the Inner City Reinvestment/Infill Policy (ICRIP) Target Area; and

WHEREAS, it is the intent of the Parties that CITY and GLAZER’s shall enter into a 10-year tax abatement agreement on the Property, that CITY shall nominate GLAZER’s for designation as a State Enterprise Project, that GLAZER’s shall purchase the Property and that CITY shall provide other economic incentives, such as CITY development and SAWS Impact Fee waivers and payment of the storm water fee up to the amount of \$105,000.00; and

WHEREAS, in return for these incentives, GLAZER’s agrees to cooperate with CITY in developing an exit strategy from its current Eastside location and assisting the City in promoting redevelopment in targeted areas of the City and GLAZER’s agrees to make the contribution set forth in this Donation Agreement (“Agreement”), which is a separate obligation from its donation agreement for the benefit of San Antonio for Growth on the Eastside; **NOW THEREFORE**

For and in consideration of the following mutual promises and obligations, the Parties agree as follows:

1. GLAZER’s shall donate to CITY for the benefit of revitalization and redevelopment efforts in the ICRIP Target Area, including the area supported by the Westside Development Corporation, the following amounts: (a) twenty five thousand dollars and no cents (\$25,000.00) on or before the 1st day of April, 2014; (b) twenty five thousand dollars and no cents (\$25,000.00) on or before the 1st day of April 2015; and (c) twenty five thousand dollars and no cents (\$25,000.00) on or before the 1st day of April 2016.
2. CITY shall serve as the fiscal agent for the funds provided for in Paragraph 1 and shall only use and provide this funding to support economic redevelopment efforts and revitalization in the ICRIP Target Area, including the area supported by the Westside Development Corporation.
3. GLAZER’s represents, warrants, assures, and guarantees that it possesses the legal authority to enter into this Agreement and to perform the responsibilities required under this Agreement. The signer of this Agreement for GLAZER’S represents, warrants, assures and guarantees that he or she has full legal authority to execute this Agreement on behalf of GLAZER’s and to bind GLAZER’s to all terms, performances and provisions of this Agreement.
4. All alterations, additions, or deletions to the terms of this Agreement shall be by amendment in writing executed by both CITY and GLAZER’s, and subject to the approval of the City Council of the City of San Antonio, when such approval is required.

5. If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws including, but not limited to, the City Charter, City Code or City ordinances then, and in that event, it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

6. No waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either Party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged.

7. No act or omission of a Party shall in any manner impair or prejudice any right, power, privilege or remedy available to such Party hereunder or by law or in equity, such rights, powers, privileges, or remedies are specifically preserved by this Agreement.

8. This Agreement constitutes the final and entire agreement between the Parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto, unless this Agreement is amended as required in Paragraph 4.

9. In the event any disagreement or dispute should arise between the Parties hereto pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, regulations, laws, codes or ordinances, CITY shall use reasonable rules of construction, but shall have the final authority to render or secure an interpretation.

10. For purposes of this Agreement, all official communications and notices among the Parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

Pat DiGiovanni, Deputy City Manager
100 Military Plaza
San Antonio, Texas 78205

GLAZER'S:

Pat McNamara, Vice President of Operations
14911 Quorum Drive, Suite 400
Dallas, Texas 75254

with a copy to:

Alan N. Greenspan
Executive Vice President & General Counsel
14911 Quorum Drive, Suite 400
Dallas, Texas 75254

11. GLAZER's covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of CITY and that the doctrine of *respondeat superior* shall not apply as between CITY and GLAZER's, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between CITY and GLAZER's.

12. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Bexar County, Texas.

13. This Agreement shall commence upon final execution and expire sixty (60) days after full compliance by GLAZER's with Paragraph 1.

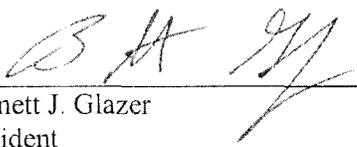
14. This Agreement shall automatically terminate in the event of termination of the tax abatement agreement between the Parties concerning the Property.

EXECUTED in duplicate originals this ____ day of _____ 2012.

CITY OF SAN ANTONIO
A Texas Municipal Corporation

GLAZER'S, INC.
d/b/a **GLAZER'S DISTRIBUTORS**
A Texas Corporation

Pat DiGiovanni
Deputy City Manager



Bennett J. Glazer
President

ATTEST:

APPROVED AS TO FORM:

Leticia Vacek
City Clerk

Leslie O. Haby
Assistant City Attorney